

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**HEIRS OF THE ESTATE OF
WILLIAM & ELLA ANDERSON,
DECEASED AND MONTEEN
ANDERSON PRUITT**

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V.

CIVIL ACTION NO. 6:06-CV-194

SUN OIL CRUDE, ET AL.

**ORDER ADOPTING REPORT AND
RECOMMENDATIONS OF MAGISTRATE JUDGE**

The above entitled and numbered civil action was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge, which contains his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration (Doc. No. 87). Plaintiffs filed an objection (Doc. No. 89) to the Report and Recommendation. After reviewing the report and recommendation of the court, the plaintiffs request that the complaint which was previously filed under the jurisdiction of “Diversity” now be changed to that of a “Federal question.” However, the report and recommendation already noted that Plaintiffs’ claims do not present a “federal question” as required by 28 U.S.C. § 1331. As the court noted, allegations relating to a lease agreement for mineral production do not give rise to a recognized federal cause of action, absent diversity jurisdiction. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the Report of the United States Magistrate Judge as the findings of this Court.

Accordingly, it is ORDERED that Defendants’ Motions to Dismiss as to Defendants Plains Marketing, L.P. (incorrectly named as Plains Company), successor to Scurlock Oil Company (Doc. Nos. 22 and 60); ExxonMobil, referred to as “Exxon Exploration and Producing” in the complaint

(Doc. No. 25); DanMark Energy, L.P. (Doc. No. 34); Gas Solutions, Ltd. (Doc. No. 36); ConocoPhillips Company, improperly named as “Conoco-Phillips” (Doc. No. 53); Shell Oil Company (Doc. No. 56); Oneok Texas Energy Resources, LP (Doc. 57); RWT Land Service (Doc. No. 58); East Texas Salt Water Disposal Company (Doc. No. 65); SND Operating, LLC (Doc. No. 67); and Pacific Oil Company, Inc. (Doc. No. 70) be **GRANTED**, and Plaintiffs’ case be **DISMISSED** as to these Defendants.

Further, the Court **ORDERS** that Defendants Amerada Hess Corp. (Doc. No. 30) and Oxy USA Inc’s. (Doc. No. 78) Motion to Dismiss be **DENIED** but, alternatively, that their Motion for a More Definite Statement be **GRANTED**. The Court **ORDERS** that Plaintiffs replead and affirmatively state their basis for jurisdiction and their allegations against these defendants by **April 15, 2007**.

Further, the Court **ORDERS** that Plaintiffs’ Motion to Amend the Notice of Class Action Complaint (Doc. No. 26) and second Motion to Amend the Notice of Class Action Complaint (Doc. No. 54), and Plaintiffs’ Motion for Status Hearing (Doc. No. 84) be **DENIED**.

So ORDERED and SIGNED this 30th day of March, 2007.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE